

**R592. Insurance, Title and Escrow Commission. (Effective 8-10-09)**  
**R592-2. Title Insurance Administrative Hearings and Penalty Imposition.**

**R592-2-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-404(2)(e) and (h), to provide the process for conducting or delegating a title administrative hearing and imposing a penalty for a violations of statute or rule.

**R592-2-2. Purpose and Scope.**

- (1) The purposes of this rule are:
  - (a) to establish procedures for the commission:
  - (i) to delegate to the commissioner's administrative law judge the conduct of an administrative hearing to resolve a title insurance matter; or
  - (ii) to conduct an administrative hearing to resolve a title insurance matter; and
  - (b) to establish procedures for the,
    - (i) to impose penalties; and
    - (ii) for the commissioner to concur with the penalties imposed.
- (2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing the business of title insurance, and continuing education providers submitting title continuing education programs for approval.

**R592-2-3. Definitions.**

For purposes of this rule, the commission adopts the definitions set forth in Utah Code Annotated (U.C.A.) Title 31A and the following:

- (1) "Commission" means the Title and Escrow Commission.
- (2) "Commissioner" means Utah's insurance commissioner.
- (3) "Title insurance matter" means a matter related to:
  - (a) title insurance; and
  - (b) an escrow conducted by an individual title insurance producer.

**R592-2-4. Title Insurance Matters Referred for Enforcement.**

- (1) A title insurance matter referred for enforcement will be resolved by:
  - (i) an informal adjudicative action pursuant to R592-2-5;
  - (ii) a stipulation and order issued by the commissioner; or
  - (iii) an administrative hearing conducted either by the commission or the commissioner's administrative law judge pursuant to R592-2-6.

**R592-2-5. Imposition of a Penalty When an Informal Adjudicative Proceeding is Used to Resolve a Title Insurance Matter.**

- (1) If the commissioner uses an informal adjudicative proceeding as set forth in 63G-4-203 and R590-160 to resolve a violation listed in Table 1 below, the commissioner shall use the penalties imposed by the commission in this Section.

(2) The commission shall impose the following penalties on title licensees for the violations listed in Table 1 below when resolved through an informal adjudicative proceeding.

Table 1

<b>Violation</b>	<b>1<sup>st</sup> Proceeding</b>	<b>2<sup>nd</sup> Proceeding</b>
Failure to complete required continuing education hours.	Individual: \$1,000; Agency: n/a	Individual: \$2,000; Agency: n/a
Failure to respond to an inquiry of the commissioner.	Individual: \$500; Agency: \$750	Individual: \$1,000; Agency: \$1,500
Failure to file a required rate, form, or report.	Individual: n/a Agency: \$1,000	Individual: n/a; Agency: \$2,000
Late filing of a required rate, form, or report.	Individual: n/a; Agency: \$750	Individual: n/a; Agency: \$1,500
Failure to charge or collect a correct premium or a correct filed fee.	Individual: \$1,000; Agency: \$2,500	Individual: \$2,000; Agency: \$5,000
Charging or collecting a non-filed required fee.	Individual: \$1,000; Agency: \$2,500	Individual: \$2,000; Agency: \$5,000
Failure to pay assessment when due.	Individual: \$500; Agency: \$750	Individual: \$1,000; Agency: \$1,500

**R592-2-4 6. Use of an Administrative Hearing to Resolve a Title Insurance Matter.**

(1) When the commissioner sets a date for an administrative hearing to resolve a title insurance matter, the commissioner shall inform the commission of the hearing date.

(2) After being informed of a hearing date, the commission shall:

(a) delegate the conduct of the administrative hearing to the commissioner's administrative law judge; or

(b) conduct the administrative hearing.

(3) For an administrative hearing conducted by the commission, the commission shall:

(a) accept the date, time and place set by the commissioner or set a different date, time, and place for the administrative hearing;

(b) cause notification to be sent to the respondent(s), the commissioner's administrative law judge, and the commissioner's

enforcement attorney of the date, time, and place of the administrative hearing;

(c) conduct the hearing pursuant to R590-160;

(d) impose penalties in accordance with Sections 31A-2-308, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214, subject to the concurrence of the commissioner; and

(e) issue an Order on Hearing.

(4) The commissioner's administrative law judge shall assist the commission in its conduct of an administrative hearing.

#### **R592-2-5 7. Imposition of Penalties.**

The commission shall impose a penalty as follows:

(1) for an informal adjudicative proceeding, a penalty shall be imposed in accordance with Table 1 in R592-2-5;

(2) for a stipulation and order issued by the commissioner, the commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner;

(a)(i) If the commission imposes a penalty other than that recommended by the commissioner, the respondent may:

(A) accept the commission's penalty; or

(B) reject the commission's penalty;

(b) if a respondent rejects the penalty imposed by the commission, the stipulation and order shall be rescinded and returned to the commissioner for resolution;

(3) for an administrative hearing conducted by the commissioner's administrative law judge pursuant to R592-2-6 (2)(a), the commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner; or

(4) for an administrative hearing conducted by the commission, the commission shall impose a penalty, subject to the concurrence of the commissioner

#### **R592-2-8. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

#### **R592-2-9. Enforcement Date.**

The commissioner will begin enforcing this rule upon the rule's effective date.

**KEY: title insurance**

**Date of Enactment or Last Substantive Amendment: 2009**

**Authorizing, and Implemented or Interpreted Law: 31A-2-402**